

**IN THE UNITED STATES DISTRICT
COURT FOR THE EASTERN DISTRICT
OF TEXAS MARSHALL DIVISION**

HALEY IP LLC,

Plaintiff,

v.

BRIDGESTONE AMERICAS, INC. d/b/a
AZUGA, INC.,

Defendant.

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Case No. 2:22-cv-00230-JRG-RSP
(LEAD CASE)

REPORT AND RECOMMENDATION

Before the Court, defendant Azuga, Inc. moves to dismiss suit for want of proper venue pursuant to Federal Rule of Civil Procedure 12(b)(3). **Dkt. No. 10.** Plaintiff Haley IP LLC moved for an extension of time to file a response, Dkt. No. 16, which the Court granted, Dkt. No. 19. That time has since expired without Haley IP LLC filing a response to oppose the instant motion.

By declaration of Azuga CFO Pierre Parent, Azuga asserts that venue is improper because it is a California corporation headquartered in Fremont, California and does not have any physical presence in the Eastern District of Texas. Dkt. No. 10-1. See 28 U.S.C. 1400(b); *In re Cray Inc.*, 871 F.3d 1355, 1360 (Fed. Cir. 2017). As mentioned above, no opposition was filed. “A party’s failure to oppose a motion in the manner prescribed herein creates a presumption that the party does not controvert the facts set out by movant and has no evidence to offer in opposition to the motion.” Local Rule CV-7(d). Accordingly, the Court finds that venue is improper and the motion to dismiss as to Azuga, Inc., **Dkt. No. 10**, should be **GRANTED**.

A party’s failure to file written objections to the findings, conclusions, and recommendations contained in this report within 14 days bars that party from *de novo* review by the District Judge of

those findings, conclusions, and recommendations and, except on grounds of plain error, from appellate review of unobjected-to factual findings and legal conclusions accepted and adopted by the district court. Fed. R. Civ. P. 72(b)(2); *see Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*). Any objection to this Supplemental Report and Recommendation must be filed in ECF under the event “Objection to Report and Recommendations [cv, respoth]” or it may not be considered by the District Judge.

SIGNED this 19th day of December, 2022.



ROY S. PAYNE
UNITED STATES MAGISTRATE JUDGE